

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

STEPHEN McCOLLUM, and SANDRA §  
 McCOLLUM, individually, and STEPHANIE §  
 KINGREY, individually and as independent §  
 administrator of the Estate of LARRY GENE §  
 McCOLLUM, §

PLAINTIFFS

V.

CIVIL ACTION NO.  
4:14-cv-3253  
JURY DEMAND

BRAD LIVINGSTON, JEFF PRINGLE, \$  
 RICHARD CLARK, KAREN TATE, \$  
 SANDREA SANDERS, ROBERT EASON, the \$  
 UNIVERSITY OF TEXAS MEDICAL \$  
 BRANCH and the TEXAS DEPARTMENT OF \$  
 CRIMINAL JUSTICE. \$

DEFENDANTS

**PLAINTIFFS' RESPONSE TO DEFENDANTS'**  
**JOINT MOTION FOR CONTINUANCE AND**  
**REQUEST FOR STATUS CONFERENCE**

The Court should deny Defendants' Motion for Continuance for three reasons.

First, there is sufficient time to prepare the case for trial on June 6, 2016 and the McCollum family should not have to wait any longer than the nearly four years they have already waited for justice. Substantial discovery—including over twenty depositions—has already taken place.

Second, Defendants should not be permitted to designate new experts on ADA issues or economics. Plaintiffs designated experts on December 20, 2013. Defendants

designated experts on January 15, February 19.<sup>1</sup> Thus, it is long past the deadline to designate new experts—especially on claims or issues they have known about for years.

Third, much of UTMB's portion of the motion is premised on the fact that Judge Lindsey had not ruled on UTMB's objections to sanctions for its inappropriate discovery conduct. However, on February 10, 2015, Judge Lindsey overruled UTMB's objections and rejected its argument to limit the sanctions imposed.<sup>2</sup> Permitting UTMB to designate new experts now would effectively reward UTMB, and TDCJ for that matter, for engaging in discovery abuse. Indeed, the discovery period had already closed when Defendants' discovery abuse became apparent.

For the foregoing reasons, Plaintiffs respectfully urge the Court to deny Defendants' Joint Motion for Continuance and to deny any attempt by Defendants to designate new experts in the *McCollum, et al.* matter.

Respectfully submitted,

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By /s/ Jeff Edwards  
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<sup>1</sup> Copies of the respective scheduling orders and Defendants' designations are attached as Exhibit 1 (Doc. 99, Third Amended Scheduling Order), Exhibit 2 (Doc. 143, Fourth Amended Scheduling Order), Exhibit 3 (Doc. 114, Defendant UTMB's Designation of Experts), and Exhibit 4 (Doc. 131, Defendants' Designation of Experts).

<sup>2</sup> See Exhibit 5 (Doc. 219, Order Granting Motion for Sanctions), Exhibit 6 (Doc. 222, Order on TDCJ's Objections to Sanctions), Exhibit 7 (Doc. 227, Order on UTMB's Objections to Sanctions).

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**CERTIFICATE OF SERVICE**

By my signature above, I certify that a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case Files System of the Southern District of Texas.